

Legislation Committee No 5

Proposed Rights of Children and Young Persons (Wales) Measure

Response from Margaret Foster, Chief Executive, Cwm Taf Local Health Board

Consultation Questions

These are suggested questions, the Committee would welcome any views you have on the proposed Measure.

1. Is there a need for legislation (by means of an Assembly Measure) to impose a duty upon the Welsh Ministers and the First Minister to have due regard to the rights and obligations in the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols, when making decisions of a strategic nature about how to exercise any functions which are exercisable by them? If not, what alternatives, if any do you propose?

Response:

Yes this would ensure and support the implementation of the convention in the strategic decision making process, thus ensuring that the rights of children and young people are protected.

2. The Welsh Ministers must make a Children Scheme as required under section 2(1), which will set out criteria for determining which decisions are decisions of a strategic nature. What do you consider is meant by 'a decision of a strategic nature' as identified in section 1(2)? Is this sufficiently clear and or sufficiently wide?

Response:

Consideration to what is meant by 'a decision of a strategic nature' is the Assembly Governments longer term plan of action for accomplishing how we meet the needs of children and young people. The strategic element of the decision making process should be one that impacts on the longer term vision of the Assembly and how that will be implemented into operational delivery by local organisations and services that impact on the lives of children an young people and their families.

3. Section 7 of the proposed Measure includes provision about consulting on the possible application of the proposed Measure to persons who have reached 18 years, but are not yet 25 years. Do you think this it is appropriate to apply a convention agreed for the benefit of children to adults between 18 and 25 years? What might be the issues to be addressed?

Response:

Having this consideration in place would pull the convention in line with local strategic planning such as the development of the children and young people's plan.

Issues for consideration would be for age appropriate aspects of service provision such as placement of young people on wards or units with older people (young peoples units) as an example. Also other services where young people may be accessing services that 18 to 25 year olds are also accessing services such as sexual health and family planning clinics.

4. The proposed Measure includes a schedule, which is the Part I of the Convention and Optional Protocol 1-7 on the rights of children involved in armed conflict (except article 6(2)) and articles 1-10 on the rights of the child on the sale of children, child prostitution and child pornography.

Do you think that the text of these treaties needs to be included on the face of the Proposed Measure?

The Assembly does not have powers relating to armed conflict and has limited powers relevant to the second protocol. Do you think it is necessary for these protocols to be included in the Proposed Measure?

Response:

As long as the treaties are appropriately referenced and briefly referred to as in the question above, then there would not be a need to include the actual text within the face of the proposed Measure.

As for armed conflict and the second protocol, due to the limited powers it would only appear relevant to include those that the Assembly can have an influence on.

5. Are the sections of the proposed Measure appropriate in terms of meeting the stated objectives as detailed on page 10 of the Explanatory Memorandum. If not, how does the proposed Measure need to change?

Response:

Yes, it would appear that Wales has taken significant steps with the development of the Seven Core Aims in meeting the requirements of the United Nations Convention on the Rights of the Child (UNCRC), it appears that this is reflected in the proposed Measure.

6. How will the proposed Measure impact on improving and strengthening the rights of the child?

Response:

If the Measure is implemented as required then the rights of the child should be enforced as the implementation is progressed from a strategic perspective through to operational delivery. The Measure must ensure that the strategic direction will allow for operational implementation on the ground and does not affect how we safeguard children and young people.

7. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?

Response:

It is difficult to outline the potential barriers to implementing the proposed Measure until the final version is in place, however, regardless of the final Measure being in place we already work to safeguard and protect children and young people and comply with the United Nations Convention on the Rights of the Child (UNCRC), so the Measure should only further enforce and support how we achieve this not create barriers to it.

8. Are there any other comments you wish to make about specific sections of the proposed Measure?

Response:

No.

9. In responding to this consultation the Committee would be grateful if you could indicate how you have gathered views of children and young people in forming your response.

Response:

Locally we have a number of ongoing forums where the views of children and young people have been gathered. We do not specifically wait for a reason to gather those views as we see this as an ongoing

priority in the way we engage with our local population across all ages regarding how services are developed and redesigned.

The measure has been shared with members of one of our local reference groups and they were encouraged to make individual responses should they wish to.

Financial provisions

10. What are the financial implications of the proposed Measure for your organisation, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.

Response:

Financial issues should not deter us away from meeting these requirements although there may be impacts if we have to further redesign or change the way we work as a result of the proposed Measure.

The financial situation for all organisations across Wales is of concern, however our duty to safeguard and protect children and young people and implement the United Nations Convention on the Rights of the Child (UNCRC) is a priority for us all.

Subordinate Legislation

11. What are your views on powers in the proposed Measure for Welsh Ministers to make subordinate legislation? In particular do you consider it appropriate for Ministers to be able to amend the proposed Measure itself by subordinate legislation (by "Order" - sections 6 and 8)? Is it appropriate to use subordinate legislation to apply the Convention to adults between 18 and 25 years or should that be done by a further Assembly Measure (section 7)?

Response:

Subordinate legislation would be suitable as the Welsh Ministers would have to take consideration of the various measures and orders already in place. The 18 to 25 issue would again fall in line with the Children's plan and so would further strengthen the link between the Children's plan and the Health Social Care and Well Being plan.

12. Section 8(5), allows Welsh Ministers to amend the Measure where there has been a change to the Convention or protocols or where an additional protocol has been signed or agreed (but not ratified) by the UK Government. Section 8(7) requires the Welsh Ministers to make similar amendments to the Measure where changes or

additions to the Convention and protocols have been ratified by the UK Government.

Although these powers are to be exercised by Statutory Instrument (SI), neither the affirmative or negative resolution procedure will apply, Ministers will simply be required to lay the SI before the Assembly. Do you have any views on whether this is a reasonable way for Ministers to update the Measure or should there be more Assembly control over the process?"

Response:

It appears appropriate for the Ministers to update the Measure in line with relevant change to the convention.

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